

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Applicant:	Kraenzel	Conf. No.:	9245
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Title:	PROVIDING USER APPLICATIONS FOR ACCESSING DATA ON MULTIPLE PLATFORMS FROM A REMOVABLE STORAGE MEDIUM	Docket No.:	LOT920030060US1 (IBML-0040)

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BRIEF OF APPELLANTS

This is an appeal from the Final Rejection dated November 23, 2009, rejecting claims 1, 2, 6-12 and 27-36. This Brief is accompanied by the requisite fee set forth in 37 C.F.R. §41.37.

REAL PARTY IN INTEREST

International Business Machines Corporation is the real party in interest.

RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences.

STATUS OF CLAIMS

As filed, this case included claims 1-26. Claims 3-5 and 13-26 were previously canceled and claims 27-36 were subsequently added. Claims 1, 2, 6-12 and 27-36 remain pending. Claims 1, 2, 6-12 and 27-36 stand rejected and form the basis of this appeal.

STATUS OF AMENDMENTS

No amendment has been submitted in response to the Final Office Action filed by the Office on November 23, 2009.

SUMMARY OF THE CLAIMED SUBJECT MATTER

Under the present invention, a computer program is provided/developed to include a first set of program code that is executable on a first operating system (e.g., a WIN32-based operating system) and a second set of program code that is executable on a second operating system (e.g., handheld device-based operating system). Both sets of program code are set to read/write from a common datastore. Thereafter, the sets of program code and the common datastore can be stored on a removable storage medium such as a SD-RAM card with a USB adapter for easy interface with “full” computer systems and handheld devices.

Claim 1 claims a universal user roaming method, comprising: providing a computer program having a first set of program code executable on a first WIN32-based operating system [see e.g., para. 0016, 0019; fig. 1, item 46], the first set of program code being a version of a user application that is adapted for execution on the first WIN32-based operating system [see e.g., para. 0016, 0019; fig. 1, item 46], and a second set of program code executable on a second non WIN32-based operating system for a handheld device [see e.g., para. 0016, 0019; fig. 1, item

48], the second set of program code being a different version of the user application that is adapted for execution on the first WIN32-based operating system [see e.g., para. 0016, 0019; fig. 1, item 48]; setting the first set of program code and the second set of program code to read and write from a common datastore [see e.g., para. 0016, 0020; fig. 1, item 46, 48]; and storing the first set of program code, the second set of program code and the common datastore on a removable storage medium that is accessible to only one of the operating systems at any one time [see e.g., para. 0020-0022; fig. 1, item 46, 48], wherein the first set of program code and the second set of program code provide the operating systems functionality to execute the user application from the removable storage medium and perform operations on the common datastore [see e.g., para. 0020-0022; fig. 1, item 46, 48].

Claim 8 claims a universal user roaming method, comprising: providing a computer program having a first set of program code executable on a WIN32-based operating system [see e.g., para. 0016, 0019; fig. 1, item 46], the first set of program code being a version of a user application that is adapted for execution on the first WIN32-based operating system [see e.g., para. 0016, 0019; fig. 1, item 46], and a second set of program code executable on a handheld device-based operating system [see e.g., para. 0016, 0019; fig. 1, item 48], the second set of program code being a different version of the user application that is adapted for execution on the first WIN32-based operating system [see e.g., para. 0016, 0019; fig. 1, item 48]; setting the first set of program code and the second set of program code to read and write from a common datastore [see e.g., para. 0016, 0020; fig. 1, item 46, 48]; and storing the first set of program code, the second set of program code and the common datastore on a removable storage medium that is accessible to only one of the operating systems at any one time [see e.g., para. 0020-0022; fig. 1, item 46, 48], wherein the first set of program code and the second set of program code

provide the operating systems functionality to execute the user application from the removable storage medium and perform operations on the common datastore [see e.g., para. 0020-0022; fig. 1, item 46, 48].

Claim 27 claims a universal user roaming system, comprising: at least one computer device; a code development system for providing a computer program having a first set of program code executable on a first operating system [see e.g., para. 0016, 0019; fig. 1, item 46], the first set of program code being a version of a user application that is adapted for execution on the first WIN32-based operating system [see e.g., para. 0016, 0019; fig. 1, item 46], and a second set of program code executable on a second non WIN32-based operating system for a handheld device [see e.g., para. 0016, 0019; fig. 1, item 48], the second set of program code being a different version of the user application that is adapted for execution on the first WIN32-based operating system [see e.g., para. 0016, 0019; fig. 1, item 48]; a storage setting system for setting the first set of program code and the second set of program code to read and write from a common datastore [see e.g., para. 0016, 0020; fig. 1, item 46, 48]; and an export system for storing the first set of program code, the second set of program code and the common datastore on a removable storage medium [see e.g., para. 0020-0022; fig. 1, item 46, 48], wherein the first set of program code and the second set of program code provide the operating systems functionality to execute the user application from the removable storage medium and perform operations on the common datastore [see e.g., para. 0020-0022; fig. 1, item 46, 48].

Claim 32 claims a universal user roaming program product stored on a computer readable storage medium medium, which when executed, comprises: means for providing a computer program having a first set of program code executable on a first WIN-32 based operating system [see e.g., para. 0016, 0019; fig. 1, item 46], the first set of program code being a version of a user

application that is adapted for execution on the first WIN32-based operating system [see e.g., para. 0016, 0019; fig. 1, item 46], and a second set of program code executable on a second non-WIN32-based operating system for a handheld device [see e.g., para. 0016, 0019; fig. 1, item 48], the second set of program code being a different version of the user application that is adapted for execution on the first WIN32-based operating system [see e.g., para. 0016, 0019; fig. 1, item 48]; means for setting the first set of program code and the second set of program code to read and write from a common datastore [see e.g., para. 0016, 0020; fig. 1, item 46, 48]; and means for storing the first set of program code, the second set of program code and the common datastore on a removable storage medium [see e.g., para. 0020-0022; fig. 1, item 46, 48], wherein the first set of program code and the second set of program code provide the operating systems functionality to execute the user application from the removable storage medium and perform operations on the common datastore [see e.g., para. 0020-0022; fig. 1, item 46, 48].

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

1. Claims 1-2, 8-10, 27-29 and 32-34 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Burger *et al.* (U.S. Patent Pub. No. 2003/0220876), hereafter “Burger,” in view of Deng (U.S. Patent Pub. 2006/0168395), hereafter “Deng,” and further in view of Clark *et al.* (U.S. Patent No. 6,317,797), hereafter “Clark.”
2. Claims 6-7, 11-12, 30-31 and 35-36 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Burger in view of Deng and Clark and further in view of McGuffin (U.S. Patent No. 7,010,671 B2), hereafter “McGuffin.”

ARGUMENT

1. REJECTION OF CLAIMS 1, 2, 6-12 AND 27-36 UNDER 35 U.S.C. §103(a) OVER BURGER, DENG AND CLARK

Appellants respectfully submit that the rejection of claims 1, 2, 6-12 and 27-36 under 35 U.S.C. §103(a) over Burger, Deng and Clark is defective.

“To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references.” *Ex parte Clapp*, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985). Appellants respectfully submit that the Burger, Deng and Clark references, taken alone or in combination, fail to meet either of the criteria required to establish a *prima facie* case of obviousness. As such, the rejection under 35 U.S.C. §103(a) is defective.

In the above referenced Final Office Action, the Examiner alleges that the cited references teach or suggest storing one version of a user application tailored for particular device, a second version of the same user application tailored for a different device, and a common datastore on the same removable storage device and executing the version of the application to which the removable storage device is coupled from the removable storage device to perform operations on the datastore. In making this assertion, the Examiner attempts to cobble together characteristics of three completely different references. However, none of the passages of the references cited by the Examiner teach or suggest two versions of the same user application and data on the same portable device.

For example, the Examiner equates the removable storage device of the claimed invention with a read-write memory taught in Burger. However, the read-write memory of

Burger differs from the removable storage device of the claimed invention in that it is imbedded in a device called a “Pocket Vault”. As such, the read-write memory of Burger cannot be characterized as removable. Further, Burger fails to teach that its read-write memory contains two versions of the same user application, each of which is executable on a different operating system, the appropriate version being executed by the operating system to which the device is coupled. In contrast, the software stored in the read-write memory of Burger is taught as being system software and, as such, cannot be construed as a user application. Para. 0127. Further, to the extent, if any, that application software may exist in the read-write memory of Burger, it would be a singular version, applicable only to the “Pocket Vault” itself. This follows from the fact that Burger does not teach multiple application versions, one of which is executable on another device.

With respect to Clark, the Examiner also equates the removable storage device of the claimed invention with its flash ROM. However, the passage of Clark cited by the Office teaches that the flash ROM is imbedded in a handheld computer (see e.g., col. 6, lines 30-34). To this extent, the flash ROM of Clark cannot be characterized as removable. Further, the passage of Clark cited by the Office states that it contains “...certain reduced or simplified, less functional versions of the full desktop or network version for reduced storage requirements.” Col. 11, lines 3-7. To this extent, any applications stored in the flash ROM of Clark are applicable only to the handheld computer itself. Thus, Clark fails to teach multiple versions, one of which is executable on another device, such as the server. As such, Clark, like Burger, fails to teach that its flash ROM contains two versions of the same user application on the same removable storage device, each of which is executable on a different operating system and executed by the appropriate operating system from the removable storage device.

With respect to Deng the passages thereof cited by the Office disclose only a generic plug-and-play device for data storage, which the Examiner equates with the removable storage device of the claimed invention. Para. 0017-0018. Deng, however, fails to teach that its plug-and-play device contains user applications that are executed therefrom. Rather, the software that Deng teaches as being stored on the plug-and-play device is system control software, and, as such, cannot be construed as a user application. Para. 0032-0034. Thus, no combination of the references cited by the Office teaches or suggests the storing multiple versions of a user application on a removable storage device and executing a version of the user application from a removable storage device that is appropriate to operating system to which the removable storage device is coupled and which retrieves data from a common data store on the removable storage device as in the claimed invention.

2. REJECTION OF CLAIMS 6-7, 11-12, 30-31 AND 35-36 UNDER 35 U.S.C. §103(a) OVER BURGER, DENG, CLARK AND MCGUFFIN

Appellants initially incorporate the above enumerated arguments. Additionally, Appellants respectfully submit that the inclusion of the medium of McGuffin in the above rejection serves only to make that rejection even more unwieldy. That is, the combination would not produce the claimed invention, but would rather produce unpredictable results that would require undue experimentation. Thus, the Examiner has failed to prove a *prima facie* case of obviousness.

CONCLUSION

In summary, Appellants submit that claims 1, 2, 6-12 and 27-36 are allowable because the cited references, taken alone or in combination, fail to meet each of the three basic criteria required to establish a *prima facie* case of obviousness.

Respectfully submitted,

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CLAIMS APPENDIX

Claim Listing:

1. A universal user roaming method, comprising:

providing a computer program having a first set of program code executable on a first WIN32-based operating system, the first set of program code being a version of a user application that is adapted for execution on the first WIN32-based operating system, and a second set of program code executable on a second non WIN32-based operating system for a handheld device, the second set of program code being a different version of the user application that is adapted for execution on the first WIN32-based operating system;

setting the first set of program code and the second set of program code to read and write from a common datastore; and

storing the first set of program code, the second set of program code and the common datastore on a removable storage medium that is accessible to only one of the operating systems at any one time,

wherein the first set of program code and the second set of program code provide the operating systems functionality to execute the user application from the removable storage medium and perform operations on the common datastore.

2. The method of claim 1, wherein the first operating system is an operating system for a computer system selected from the group consisting of a desktop and a laptop.

6. The method of claim 1, wherein the removable storage medium is selected from the group consisting of a SD-RAM card, a microdrive, a ZIP drive and a read-writeable compact disc.

7. The method of claim 6, wherein the SD-RAM interfaces with a computer system via a USB adapter.

8. A universal user roaming method, comprising:

providing a computer program having a first set of program code executable on a WIN32-based operating system, the first set of program code being a version of a user application that is adapted for execution on the first WIN32-based operating system, and a second set of program code executable on a handheld device-based operating system, the second set of program code being a different version of the user application that is adapted for execution on the first WIN32-based operating system;

setting the first set of program code and the second set of program code to read and write from a common datastore; and

storing the first set of program code, the second set of program code and the common datastore on a removable storage medium that is accessible to only one of the operating systems at any one time,

wherein the first set of program code and the second set of program code provide the operating systems functionality to execute the user application from the removable storage medium and perform operations on the common datastore.

9. The method of claim 8, wherein the WIN32-based operating system is for a computer system selected from the group consisting of a desktop and a laptop.

10. The method of claim 8, wherein the first set of program code and the second set of program code are provided within a common directory.

11. The method of claim 8, wherein the removable storage medium is selected from the group consisting of a SD-RAM card, a microdrive, a ZIP drive and a read-writeable compact disc.

12. The method of claim 11, wherein the SD-RAM card interfaces with a computer system via a USB adapter.

27. A universal user roaming system, comprising:

at least one computer device;

a code development system for providing a computer program having a first set of program code executable on a first operating system, the first set of program code being a version of a user application that is adapted for execution on the first WIN32-based operating system, and a second set of program code executable on a second non WIN32-based operating system for a handheld device, the second set of program code being a different version of the user application that is adapted for execution on the first WIN32-based operating system;

a storage setting system for setting the first set of program code and the second set of program code to read and write from a common datastore; and

an export system for storing the first set of program code, the second set of program code and the common datastore on a removable storage medium,

wherein the first set of program code and the second set of program code provide the operating systems functionality to execute the user application from the removable storage medium and perform operations on the common datastore.

28. The system of claim 27, wherein the first operating system is an operating system for a computer system selected from the group consisting of a desktop and a laptop.

29. The system of claim 27, wherein the first set of program code and the second set of program code are provided within a common directory.

30. The system of claim 27, wherein the removable storage medium is selected from the group consisting of a SD-RAM card, a microdrive, a ZIP drive and a read-writeable compact disc.

31. The system of claim 30, wherein the SD-RAM card interfaces with a computer system via a USB adapter.

32. A universal user roaming program product stored on a computer readable storage medium medium, which when executed, comprises:

means for providing a computer program having a first set of program code executable on a first WIN-32 based operating system, the first set of program code being a version of a user application that is adapted for execution on the first WIN32-based operating system, and a second set of program code executable on a second non-WIN32-based operating system for a

handheld device, the second set of program code being a different version of the user application that is adapted for execution on the first WIN32-based operating system;

means for setting the first set of program code and the second set of program code to read and write from a common datastore; and

means for storing the first set of program code, the second set of program code and the common datastore on a removable storage medium,

wherein the first set of program code and the second set of program code provide the operating systems functionality to execute the user application from the removable storage medium and perform operations on the common datastore.

33. The program product of claim 32, wherein the first operating system is an operating system for a computer system selected from the group consisting of a desktop and a laptop.

34. The program product of claim 32, wherein the first set of program code and the second set of program code are provided within a common directory.

35. The program product of claim 32, wherein the removable storage medium is selected from the group consisting of a SD-RAM card, a microdrive, a ZIP drive and a read-writeable compact disc.

36. The program product of claim 35, wherein the SD-RAM card interfaces with a computer system via a USB adapter.

EVIDENCE APPENDIX

No evidence is entered and relied upon in the appeal.

RELATED PROCEEDINGS APPENDIX

No decisions rendered by a court or the Board in any proceeding are identified in the related appeals and interferences section.